IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 2448 of 2007

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AJAYKUMAR GOVINDPRASAD TRAMRAKAR & 5 - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR HEMANT B RAVAL for Applicant(s) : 1 - 6.
PUBLIC PROSECUTOR for Respondent(s) : 1,
MR SR YADAV for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 20/09/2007

ORAL JUDGMENT

1. Rule. Shri M.R.Mengde, learned APP waives service of rule on behalf of the respondent – State.

2. By way of this application under section 482 of the Criminal Procedure Code, the applicants – original accused have prayed for an appropriate order to quash the criminal case No.1646 of 2006 (old criminal case No.6050 of 2003) pending in the Court of learned Metropolitan Magistrate, Court No.14, Ahmedabad and also to quash the warrant issued in the said criminal case No.1646 of 2006.

3. At the outset, it is required to be noted that the impugned criminal complaint / criminal case has been filed by the wife – original complainant in the learned trial Court in the year 2003 and the learned Metropolitan Magistrate, Court No.14, Ahmedabad by its order dated 24.12.2003 issued summons against the applicants for the offence punishable under sections 498(A), 323, 504, 427, 506(A) and 114 of the Indian Penal Code r.w. section 3 and 7 of the Dowry Prohibition Act. Inspite of the fact that the summons have been issued in the year

2003 and th same have been served upon the applicants, immediately, the applicants have prayed for quashing and setting aside of the said criminal case by filing present application in the year 2007 i.e. after the period of almost 3 years without explaining any delay. It also appears from the record that as such, the applicants have participated in the proceedings before the learned trial Court and even one application for exemption was also submitted on behalf of the accused persons, however, the learned Metropolitan Magistrate dismissed the said application on 13.9.2006 and it appears that thereafter the accused persons are not remaining present before the learned trial Court and the learned trial Court had no other alternative but to issue warrants and accordingly by order dated 29.1.2007 bailable warrants are issued against the applicants – original accused.

4. Considering the above and the fact that the present application has been filed after the

period of 3 years without explaining any delay, this application is required to be dismissed on the sole ground of delay and laches as the applicants have not participated in the proceedings before the learned trial Court. So far as contention challenging the bailable warrants is concerned, in the facts and circumstances of the present case, it cannot be said that the learned trial Court has erred in issuing the bailable warrants. The applicants may appear before the learned Metropolitan Magistrate pursuant to the said bailable warrants and furnish the bail bonds.

5. With these, present application is dismissed. Rule is discharged. Ad-interim relief, if any, stands vacated forthwith.

[M.R.Shah, J.]

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